IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No.4888 of 2007

Date of Decision: September 24, 2007

Bachna Ram .....Petitioner

Versus

Puran Chand .....Respondent

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.Amit Dhawan, Advocate for the petitioner.

S. D. ANAND, J.

A suit filed by the plaintiff-respondent against the defendant-petitioner for possession, by way of specific performance of agreement to sell dated 23.6.1998, was decreed by the learned Trial Court. In the first appeal, the defendant-petitioner filed an application under Order 41 Rule 27 of the Code of Civil Procedure to obtain the leave of the Court to examine the stamp vendor, who had allegedly sold the relevant stamp paper upon which the impugned agreement to sell dated 23.6.1998 had been scribed and to get his (petitioner's) thumb impression on the agreement compared with his specimen thumb impression. The plea, in the context, was that he never purchased the alleged stamp paper and also never put his signatures in the register of the stamp vendor.

The learned District Judge, Jalandhar declined the application by observing that the petitioner only wanted to fill up the lacunae in his case by moving the said application.

The learned counsel for the petitioner argues that the reception of the additional evidence would enable the Court to dispose of the controversy effectively.

The plea is devoid of merit. A party is supposed to be in the know of its pleadings and also the basis of the claim raised by it. In the present matter, the precise plea raised by the plaintiff-respondent was based upon the impugned agreement dated 23.6.1998 which had been executed by the defendant-petitioner in favour of the former. That document was brought into being as an agreement vide which the defendant-petitioner had agreed to sell indicated area of his land to the plaintiff-respondent for the indicated consideration. It was, thus, obvious to the defendant-petitioner from the very beginning that he shall have to falsify the averment made by the plaintiff-respondent that the former had executed the impugned agreement. The falsification of the factum of purchase of stamp paper could obviously be a reliable and may be conclusive piece of evidence in that behalf. The defendant-petitioner cannot be allowed to presently raise a plea for additional evidence just in order to be able to wriggle out of an adverse finding recorded by the learned Trial Court on account of the non-production of appropriate evidence.

The line of reasoning adopted by the learned District Judge is in order and relatable to the material obtaining on the file. There is nothing in the impugned order which could invite interference by this Court.

Dismissed in limine.

(S. D. ANAND)
JUDGE

September 24, 2007
SRM

Note: Whether referred to reporter or not? Yes/No